

REMARKS

Applicants have carefully reviewed the Final Office Action mailed on October 18, 2006. Claims 22-36 are pending, claims 22-30 and 35 have been rejected and claims 31-34 and 36 are withdrawn.

Rejections under 35 U.S.C. §102

Claims 22-30 and 35 are rejected under 35 U.S.C. §102(b) as being anticipated by McIntyre et al. in U.S. Patent No. 5,334,153. Applicants respectfully traverse the rejection.

There are several claim elements that McIntyre et al. do not teach or suggest. For example, claim 22 recites “the port...having a flanged end.” McIntyre et al. do not teach or suggest this element. For at least this reason, Applicants submit that McIntyre et al. do not anticipate the invention covered by the claims.

In a prior response, Applicants correctly pointed out that the thread 34 disclosed by McIntyre et al. is not a flange.¹ The Examiner did not find this persuasive and supported his reasoning by resort to the dictionary definition of flange: “a protruding rim, **edge, rib**, or collar, as on a wheel or **a pipe shaft**, used to strengthen an object, hold it in place, or **attach it to another object**,”² and arguing that the thread is considered to be a edge/rib used to attached. Applicant can see how one not familiar with the word “flange” might read this definition and suppose a screw thread to be covered by it. However, Applicants have never seen the word “flange” so used, and do not believe that one of skill in the art would understand the word “flange” to cover threads.

Dictionary definitions are informative but not definitive. One can reasonably rely on a dictionary definition to communicate to a lay reader a meaning of the word as fully as the constraints of space and time allow. The particular word defined, it must be remembered, is one of many that a dictionary has to deal with and so the writer can only devote so much space on the page and so much time in the preparation to any particular word. As Samuel Johnson, author of the first dictionary of the English language put it in his preface to that dictionary, “where there are many things to be done, each must be allowed its share of time and labour, in the proportion

¹ July 21, 2006 Response

² This is the definition provided by the American Heritage Dictionary of the English Language, Fourth Edition, which can be found through www.dictionary.com or www.answers.com.

only which it bears to the whole; nor can it be expected, that the stones which form the dome of a temple, should be squared and polished like the diamond of a ring.”³ Two examples will illustrate this point, one analogous, and one a definition that cannot mean everything that the uninformed might think it means but whose meaning is so commonly understood that no difficulty with regard to it between the Examiner and Applicants can reasonably exist. The first example: A driver on a highway who sees a sign that says that there is an exit one mile ahead can reasonably rely on the exit being near enough to a mile ahead as to make little difference to him or her. A road surveyor, seeing that same sign, cannot reasonably rely on the fact of that exit being exactly 5,280 feet ahead; the surveyor might well be fired if he or she did, this despite that fact that a mile is defined (with more precision than a flange) to be 5,280 feet. The sign, like the dictionary definition, is good enough for its intended audience, but cannot be reasonably relied upon by specialists. The second example: “Telephone” is defined as “[a]n instrument that converts voice and other sound signals into a form that can be transmitted to remote locations and that receives and reconverts waves into sound signals.”⁴ This definition, it will be seen, covers tape recorders. Tape recorders convert voice or other sound signals into a form (i.e., a tape) that can be transmitted⁵ (via mail, courier, etc.) to remote locations and that receives and reconverts waves (from a tape) into sound signals. This definition also covers computers connected to the internet, many of which even have software that has telephonic capabilities. However, if one asks for a telephone and receives a tape recorder, or gives permission to someone else to buy a telephone and receives a computer, one might be understandably upset. Even though the definition of “telephone” can be read to include both tape recorders and computers, no one actually thinks that “telephone” encompasses these other devices.

To return the discussion to the issue at hand more directly, “flange” does not encompass a screw thread nor, so far as Applicants believe, would one of skill in this art area reasonably understand the word “flange” to encompass screw threads. The Examiner’s reliance on a dictionary definition is, as explained above, not reasonable. The definition can seem to encompass more than anyone understands the word to mean; and definitions which are suitable for informing a lay reader may (as in this case) be entirely unsatisfactory for a technical reader.

³ <http://www.gutenberg.org/dirs/etext04/peng110.txt>

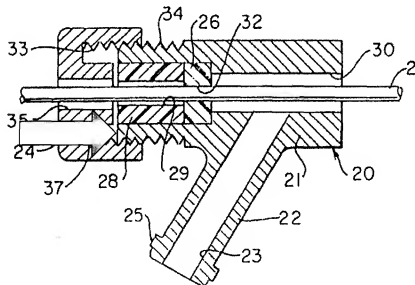
⁴ American Heritage Dictionary of the English Language, Fourth Edition

⁵ The definition of “telephone” does not limit “transmitted” to “electronically transmitted.”

For at least these reasons, Applicants respectfully submit that the thread 34 shown in Figure 4 of McIntyre et al. does not anticipate claim 22, which recites “a flanged end.”

The other independent claim, claim 35 recites “wherein the port includes...a proximal flange” and for the reasons discussed above with regard to claim 22, Applicants submit that McIntyre et al. do not anticipate this claim either.

Claim 35 further recites “proximal end surface defined by the proximal end and the proximal flange; and a seal attached to the proximal end surface that seals the inflation lumen.” McIntyre et al. do not teach attaching a seal to a proximal end surface defined by the proximal end and the proximal flange. Supposing, for the sake of argument, thread 34 to be a flange, the proximal end surface must be that surface indicated by the arrow in the reproduction of Figure 4, below:



There is nothing attached to this surface. While it may be common to say that one component is attached to another and mean that the component may only be indirectly attached, it is understood that when one says a component is attached to a surface, that something is attached directly to the surface. For example, the phrase of claim 35, "a seal attached to the proximal end surface," may include embodiments where a seal is not in direct and immediate contact with the surface; there may be, for example, a layer of adhesive between the seal and the surface. However, one of skill in the art would understand that phrase to mean that something is attached to the proximal end surface and that something is the seal or something which attaches the seal to

the surface. As Figure 4 of McIntyre et al. shows nothing attached to the only surface that can reasonably be said to be a proximal end surface defined by the proximal end and the thread, Applicants respectfully submit that McIntyre et al. do not teach or suggest this claim element.

As to the dependent claims, Applicants submit that at least for the reason that claims 23-30 depend from claim 22, which Applicants submit is allowable, and contains additional elements, Applicants submit that these claims are in condition for allowance.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

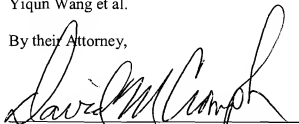
Respectfully submitted,

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By their Attorney,

Date: _____

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